UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/393,677
Filing Date: September 10, 1999
Appellant(s): MOTOYAMA ET AL.

James J.Kulbaski
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04/12/07 appealing from the Office

action mailed 11/14/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| 5,566,291 | Boulton et al. | 10-1996 |
| 6,181,981 | Varga et al. | 01-2001 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed

claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented
and the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 5-9, 13-17, 21-25 and 29-36 are rejected under 35 U.S.C. 103(x) as

being unpatentable over Boulton et al. [US. 5,566,291] in view of Varga et al.

[US. 6,181,981].

As per claims 1, 9, 17, 25, Boulton teaches a computer implemented method

and corresponding system for monitoring usage of an interface of a device

comprising the steps/means: a device comprising an interface, the interface

comprising a plurality of operations to be selected by a user (column 3, lines

60-67); a monitoring unit configured to monitor data of selecting of the plurality of operations of the interface by the user (column 4, lines 15-30), and to generate the monitored data (see abstract), the monitored data being stored in the device (column 5, lines 36-44);

Boulton fails to **clearly** teach the step of automatically start the monitoring without requiring a connection to a receiving device to which the log of monitored data is to be sent, the step of automatically starting the monitoring without requiring a connection to a receiving device to which the log of monitored data is to be sent and automatically upon start-up of the image forming device without the user directly starting a monitoring program. However, Varga teaches the step of automatically starting the monitoring without requiring a connection to a receiving device to which the log of monitored data is to be sent (e.g., col. 2, line 65 - col. 3, line 13; *self-monitoring vending machine* and to automatically communicate the monitored data by a unidirectional communication without requiring input from the device to which the monitored data is to be sent (e.g., col. 2, line 65 - col. 3, line 13; *self-monitoring vending machine).* It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to combine the Varga's teachings with the Boulton's system. Motivation of the combination would have been to make it easy for the user by not requiring him/her to directly execute a specific monitoring program.

As per claims 5, 13, 21, and 29, Boulton teaches the communicating unit

sends the log of the monitored data when the user exits the device (column 12,

lines 47-56).

As per claims 6, 7, 14, 15, 22, 23, 30 and 31, Boulton teaches a setting unit

configured to set a number of sessions of the device to be executed by the user

prior to the communicating unit communicating the log of the monitor data,

wherein the abstract class includes first and second derived classes, the first

derived class storing data of one session and the second derived class storing

data of the set number of sessions (column 3, lines 18-32); and wherein the log

of the monitored data is in a form of an abstract class (column 11, line 25

through column 12, line 64);

As per claims 8, 16, 24, and 32, Boulton discloses the communicating unit

communicated the log of the monitored data by Internet mail (column 39, lines

50-65).

As to claims 33-36, Boulton also discloses the log of monitored data being in a

form of an abstract class (column 11, line 25 through column 12, line 64).

(10) Response to Argument

1) Appellant has argued that Boulton et al. do not teach "automatically upon start-up of the image forming device without the user directly starting a monitoring program".

Appellant also stated that in Boulton the user is required to input the monitored information to be provided to the reviewing party.

Appellant further stated that in Boulton a user must initiate an action to event perform the "feedback" therein. That operation in Boulton is directly contrary to the claimed features in which the monitoring is performed automatically upon start-up of the image forming device with out the user directly starting a monitoring program.

Appellant stated that it would be impossible to modify Boulton to start a monitoring progress automatically because in Boulton the entire monitoring process is the user typing in comments.

The Examiner respectfully disagrees for the following reasons:

The appellant is correct when stating that "in Boulton a user must initiate an action to event perform the "feedback" therein. A user may activate an enter feedback mode command in a computer environment to provide feedback in a feedback interface".

However, the appellant is incorrect when stating that since the user may activate an enter feedback mode command, the user has to initiate an action to **monitor** the user's feedback. The examiner respectfully disagrees because the step of activating an enter feedback mode command is totally different than the step of monitoring the user's feedback.

Applicant's attention is directed to column 4, lines 20-25 that recite "**the step of recording in the feedback record the time at which the feedback is made**". It is clear that the feedback is recorded at the time the feedback is made. The step of recording this feedback does not require a user's action to start a recording program. When the user types his/her commands (being considered as "plurality of operations by the user" as claimed in the claim language), the system automatically starts to record the commands without any user's action to initiate the recording system.

Since Boulton teaches recording the feedback record at the time at which the feedback is made, Boulton inherently teaches monitoring the feedback at the time at which the feedback is made. Although Boulton does not clearly recite the step of automatically monitoring the feedback without user's action, Boulton discloses at column 4, lines 20-25, "the method may also include **the step of recording in the feedback record the time at which the feedback is made.**"
Further, the appellant is incorrect when stating that since the user may activate an enter feedback mode command, the user has to initiate an action to **monitor** the user's feedback.

2) Appellant has argued that Varga is completely unrelated to the device of Boulton.

Examiner respectfully disagrees because Varga is a vending machine which is programmed by a computer processor. So, the vending machine is a computer system. Although Varga is an electronic device, it is also the computer system. Since, the vending machine is a computer device, the teachings of Varga are applicable to any computer device such as the computer device of the Boulton's system. The appellant is incorrect to state that Vargar's vending machine is completely unrelated to the device of Boulton.

Varga teaches a method and apparatus for providing a self-monitoring vending machine with remote network communication and a process for analyzing information. Both systems teach a monitoring program which monitors user's selection. Therefore, the appellant is incorrect to state that **Varga is completely unrelated to the device of Boulton.**

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the

examiner in the Related Appeals and Interferences section of this examiner's

answer.

For the above reasons, it is believed that the rejections should be

sustained.

Respectfully submitted,

Mylinh Tran

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